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Chief, Administrative Staff

5 May 1950

Legal Staff

Transportation and Per Diem Expenses

1. You have requested our views, in a memorandum dated 26 April 1950, regarding the propriety of issuing a statement of Agency policy in regard to the designation of air travel for employees and their dependents when it appears a saving in money or time may be achieved. We have seen no authoritative ruling that the employee is not entitled to an election of an available means of transportation other than air even when the employee's travel is the result of an urgent operational necessity requiring his immediate presence at destination.
2. Although the Comptroller has stated in his opinion of 9 December 1947, B-71008 (we believe the citation of "B-71009" is a typographical error) that "air travel now is an accepted and reliable means of transportation, and the mere fact that a person does not desire to use that method of travel may not serve to obligate appropriated funds for the payment of additional per diem or other traveling expenses incurred in waiting for a different mode of transportation," we agree with your conclusion that the opinion dealt primarily with time spent in waiting for sea transportation. There is thus no indication that he intended this to limit the means of transportation generally.
3. At the time this opinion was rendered, sufficient facts were not available to make a final determination, and the Comptroller General stated that if air transportation "could not have been obtained, then per diem properly may be authorized for payment up to and including August 27, 1947, that being the date upon which vessel transportation became available." In a subsequent opinion on the same case, dated 21 June 1949, the beginning of the disallowance is indicated to be 27 August. It would therefore appear that air facilities were not actually available for use. The opinion cites paragraph 49 of the Standardized Government Travel Regulations in support of its conclusion that the travel orders were not "to be construed as having conferred upon the travelers the option of delaying their travel at Government expense until a more preferable means of conveyance became available." This refers to "indirect route or interrupted travel" and limits per diem in lieu of subsistence to that which would have been incurred on uninterrupted travel by the most economical usually-traveled route when there is an interruption or deviation for the traveler's personal convenience, or the use of leave. This all tends to condition his final conclusion since the traveler was actually on leave under Foreign Service Regulations for a portion of the period spent in Buenos Aires, and the delay because of his wife's illness was considered a matter of

personal convenience. The travel orders apparently provided for both air and sea transportation, and while the case clearly stands for the principle that once travel has been undertaken it cannot be unnecessarily delayed by a refusal to use air facilities, the question of denying the employee all facilities other than air as a matter of policy is not presented.

4. This opinion of the Comptroller General has not been overruled, modified or distinguished, but in the absence of a clear expression of his opinion in regard to the rights of election which an employee may have in the mode of transportation, we do not believe that a policy statement limiting travel to air, even in those cases where there is a demonstrable economic saving to the Government, should be issued without further advice from the Comptroller.

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CC: Subject ✓

Chrono

Legal Sec.